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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,552	06/13/2005	Klaus Grohe	D4700-00396	5070

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DUANE MORRIS LLP - Philadelphia
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

EXAMINER

NGUYEN, TUAN N

ART UNIT	PAPER NUMBER
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3751

MAIL DATE	DELIVERY MODE
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11/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,552	Applicant(s) GROHE, KLAUS	
	Examiner Tuan N. Nguyen	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3-5, 7-10 and 12-15 have been considered but are moot in view of the new ground(s) of rejection. The examiner disagrees with the applicant's interpretation of the Perkins reference on pages 6-7, each of the Perkins shower head has its own respective valve for controlling the water exiting the shower head similar to that of Coleman's Fig. 3 shower. The Coleman teaches the alternative way of adding a handheld shower with a hose in place of one of the plurality of shower heads to provide better flexibility and control of a shower head. The combination of Coleman teaching onto the Perkins shower device, as indicated in the previous office action, can only improved the flexibility and control of the Perkins shower head and provide the user with a more flexible shower experience. Whether the user is standing, as argues by the applicant, has no bearing on the claimed structure.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 7-10 and 12-15, as presently and best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins in view of Colman, Elkins et al., and Yxfeldt.

Regarding claim 1, the Perkins reference discloses a shower support.

The support includes a shower head (16), a mounting fixture (Fig. 4) for mounting the support such that the support is adjustable, a pivotable arm (at 10) jutting out of the mounting fixture, the arm having a first end connected to the mounting fixture and a second opposite end (*where element 16 is located*), with a water conduit (*the hollow portion of element 10*) extending from the mounting fixture to at least one additional shower fixture (14 or 15) attached along the arm, wherein the additional shower fixture is arranged to be supplied with water by the water conduit.

The Perkins reference DIFFERS in that the shower head is not a handheld shower head with a hose as claimed. Attention, however, is directed to the Colman reference which discloses another shower support having a shower head (*28b in Fig. 2*) that could be substituted with a handheld shower head (*28b in Fig. 3*) and a hose (40) so that the shower head could be used as a handheld shower unit. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Perkins reference by employing a handheld shower head, in view of the teaching of Colman, in order to convert a fixed shower head into the handheld shower head so that the shower head could be used as a handheld shower unit. Furthermore, the handheld shower head is supplied with water by the hose independently of the at least one additional shower fixture. Even though the Colman reference does not specifically include a receptacle adapted to receive the shower head when the

shower head is not in hand operation as claimed, attention, however, is directed to the Elkins et al. reference which discloses a handheld shower head with a receptacle (Fig. 1), wherein the receptacle being arranged at the second opposite end of the arm away from the mounting fixture (Fig. 1), wherein the shower head and the receptacle are configured to allow the shower head to be removed from the receptacle during hand operation of the shower head on the hose. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a receptacle for the handheld shower head, in view of the teaching of Elkins et al., in order to allow the handheld shower head to be stowed away when it is not in use, especially since the Colman reference also discloses that the handheld shower head (28b) would be detachably connected to the arm (16) so that the shower head can be used as a handheld shower unit. The arrangement of the hose can obviously be from the mounting fixture to a handgrip of the shower head as, for example, taught by Yxfeldt as known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art.

Regarding claim 3, wherein the water conduit is defined by a channel that extends through the arm and leads to the additional shower fixture.

Regarding claim 4, wherein the arm comprises a length of hollow, profiled stock, at least from the mounting fixture to the additional shower fixture.

Regarding claim 5, wherein the additional shower fixture is arranged between the mounting fixture and the second opposite end of the arm.

Regarding claim 7, wherein the additional shower fixture is mounted on a side of the arm jutting from the mounting fixture.

Regarding claim 8, wherein at least one additional shower fixture is mounted on an underside of the arm.

Regarding claim 9, wherein the shower support has multiple additional shower fixtures (14, 15) and wherein the water conduit provides a water supply common to all additional shower fixtures.

Regarding claim 10, wherein the additional shower fixture is non-detachable.

Regarding claim 12, wherein the arm is pivotable relative to the mounting fixture about a horizontal axis orthogonal to a longitudinal axis of the arm.

Regarding claim 13, wherein a water conduit passes a pivotable connection of the arm to the mounting fixture (Fig. 4 of Perkins).

Regarding claims 14 and 15, wherein the arm (Fig. 3 of Colman) is configured in the form of a fork, wherein the additional shower fixtures are obviously arranged on outer faces of the tines of the fork.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan N Nguyen/
Primary Examiner, Art Unit 3751

TN